

**Testimony
Of
Theodore W. Kassinger
Deputy Secretary of Commerce
Before the
Subcommittee on Environment, Technology, and Standards
House Science Committee
July 15, 2004**

Chairman Ehlers, Mr. Udall, and Members of the Subcommittee, I appreciate your convening this hearing today on the creation of a NOAA Organic Act to bring together in one statute the fundamental structure, purposes, and authorities of the National Oceanic and Atmospheric Administration (NOAA).

I thank you, Mr. Chairman, for your continuing support of NOAA's programs, as evidenced by your introduction of H.R. 4546, the NOAA Organic Act authored by you and under consideration by the House Science Committee. I also want to thank both you and Congressman Gilchrest for graciously acceding to the Administration's request to introduce H.R. 4607, our version of a NOAA Organic Act.

Because of its strategic impact on the economic and environmental welfare of the Nation, NOAA commands a central place within the Department of Commerce. As Secretary Evans recently noted, NOAA's products and services touch 30% of the Nation's GDP every year. Waterborne cargo alone contributes over \$740 billion to our GDP and supports jobs for more than 13 million citizens. The commercial fishing industry adds approximately \$28.5 billion to the national economy on a yearly basis.

In transmitting the Administration's proposed NOAA Organic Act to the Congress, Secretary Evans stated that "the increasing economic and environmental importance of ocean and atmospheric assessment, research and stewardship" created an acute need to "enhance NOAA's ability to predict and protect the environment and contribute to our nation's safety, health and prosperity." In line with that stated need, NOAA has adopted for itself the following four priorities: ecosystem approaches to managing the environment; climate change; weather and water; and commerce and transportation. Because the Nation's economy depends on NOAA products, we have placed an emphasis on science that has a clear application to NOAA's programs.

Originally created by Reorganization Plan No. 4 in 1970, NOAA has accumulated a large number of diverse responsibilities over the decades. It currently relies on close to two hundred separate legislative authorities, as well as on statutes of general applicability, to perform its job. Some of these, such as the Merchant Marine Act of 1936, the Agricultural Marketing Act of 1946, and the Coast and Geodetic Survey Act of 1947, predate the creation of NOAA. Nonetheless, from the late 1970's through the present, various Executive and Legislative Branch initiatives to organize NOAA's missions and authorities into a single law have foundered due to

unresolved disagreements. After thirty-four years, it is time to advance from a Reorganization Plan to a unified, coherent legislative enactment.

In its *Preliminary Report*, released for review of the governors of the United States on April 20, 2004, the U.S. Commission on Ocean Policy reached the same conclusion. In its report, the Commission recommends immediate Congressional action on an organic act to enhance NOAA's ability to conduct operations "consistent with the principles of ecosystem-based management and with its primary functions...." Admiral James Watkins, Commission Chairman, emphasized the importance of a NOAA Organic Act before the House Science Committee on May 5, 2004. The Administration concurs fully and, with the transmittal to Congress of an Administration proposal, has acted upon this preliminary recommendation from the Commission.

The introduction of H.R. 4546 and H.R. 4607 thus offers a timely and welcome opportunity to consider anew the appropriate way to define NOAA's mission and responsibilities. While we can be assured of a wide variety of views on this subject, it is encouraging that all parties seem to agree on one important tenet: NOAA, for the first time, must have a unified law to provide a solid foundation for its future service to the United States.

While both bills share common objectives, they differ in approach in three general areas: first, the explicit grant of agency-wide authorities; second, flexibility to reorganize the agency's structure; and third, the nature and scope of an advisory board to oversee NOAA's activities. We are confident that these differences in approach can be resolved satisfactorily, and we look forward to working with your Committee to that end.

Explicit Grant of Agency-Wide Authority

H.R. 4607 would greatly simplify NOAA's ability to undertake research activities, to disseminate information, to manage ocean and coastal areas, and to provide stewardship of living marine resources by codifying in one place its core administrative authorities. By way of example,

H.R. 4607 grants to NOAA --

- authority to accept gifts and bequests, consistent with similar authorities provided to other Federal agencies. The ability to accept such gifts or bequests could be used, for example, to obtain weather radio towers.
- authority to acquire property interests, which could, for example, have positive results for managing natural resource damage and restoration programs, by confirming that NOAA has authority to acquire directly property to be used for habitat restoration projects.
- authority to operate through partnerships and enter into agreements with non-Federal entities.

While NOAA has many of these authorities under statutes for specific programs, or under the

Department's general authorities, this bill provides clear authorities on a NOAA-wide basis, and places the NOAA authorities together in one public law. We recommend that a NOAA organic act include provisions providing these types of NOAA-wide authorities.

Flexibility to Reorganize the Agency's Structure

While both bills establish the positions of Under Secretary (Administrator), Assistant Secretary (Deputy Administrator), and Deputy Under Secretary, H.R. 4546 would also establish the NOAA SES positions of Deputy Assistant Secretary for Oceans and Atmosphere, Deputy Assistant Secretary for International Affairs, Deputy Assistant Secretary for Science and Technology, and General Counsel. H.R. 4607, by contrast, would allow these and other senior positions to be established by the NOAA Under Secretary.

While the positions specified in H.R. 4546 (with the addition of the position of DAS for Science and Technology) accurately reflect the current organizational structure of NOAA, the Administration prefers the approach adopted by H.R. 4607, which would allow for additional organizational flexibility.

Although Congress may pass a NOAA organic act this session, history teaches us that it may take years – if not decades – before further legislative changes are possible. During that period, the Nation's priorities and the state of science and the environment will inevitably change and evolve. Our bill would allow NOAA the flexibility to make those organizational and programmatic changes that may be needed to meet future developments and challenges. The Administration recognizes that Congress has a strong interest in how NOAA is organized, and we are confident that there are ways to assure Congressional participation in that matter without resorting to the creation of a rigid structure for NOAA in statute.

In a similar vein, H.R. 4546 highlights several NOAA purposes and missions by reference to specific NOAA programs and activities. For example, the bill directs the Secretary to maintain within NOAA a National Weather Service (NWS), and delineates the NWS mission, goals and functions (section 105). The bill also directs the Secretary to maintain within NOAA operational and service programs to support routine data collection and direct services and products relating to satellite, observations, and coastal, ocean and Great Lakes information (section 106). In addition, the bill directs the Secretary to maintain within NOAA programs to conduct and support research and education and the development of technologies relating to weather, climate and the coasts, oceans and Great Lakes (section 107).

H.R. 4607 does not contain any of these provisions explicitly, but does provide for general authority to continue these important activities. The Administration prefers not to highlight the importance of some NOAA programs through their inclusion in an organic act, while inadvertently or inappropriately neglecting others.

Creation of Advisory Board

Both bills address a need for the establishment of an advisory panel of distinguished experts to provide advice and insights regarding NOAA science and research activities. Currently, NOAA has a 15-member science advisory board that was established by decision of the Secretary of Commerce and chartered in September 1997 under the Federal Advisory Committee Act. The members are appointed by the NOAA Administrator to advise him on long- and short-range strategies for research, education, and the application of science to resource management and environmental assessment and prediction.

H.R. 4546 establishes in law a 15-member Science Advisory Board, while H.R. 4607 establishes a NOAA Advisory Committee on Oceans and Atmosphere that is broader in scope than the Board contemplated by H.R. 4546. The NOAA Advisory Committee established by H.R. 4607 would replace the now-defunct National Advisory Committee on Oceans and Atmosphere and the current NOAA Science Advisory Board. This new Committee would continue to address science issues, as would the National Science Board in H.R. 4546. In this respect, the NOAA Advisory Committee would be similar to the current NOAA Science Advisory Board. The Administration, however, would like to expand the scope of the present science board to include NOAA-wide policy issues.

We believe that this broader scope would be a logical extension of issues considered by a science board, better reflecting the depth and breadth of the policy issues embedded in NOAA's missions and purposes. Thus a panel could provide the senior leaders of NOAA with the critical perspective of highly qualified, independent experts who could bring useful outside perspectives to the challenges NOAA faces. Moreover, as is commonly done with advisory committees, the NOAA Advisory Committee structure could include subcommittees or working groups to address in greater detail specific scientific questions. The Administration bill provides flexibility for determining the number of committee members and terms of services through the development of a charter.

Conclusion

Thank you for the opportunity to discuss both the Committee's bill, H.R. 4546, and the Administration's bill, H.R. 4607. As I previously noted, both bills have very similar objectives. For that reason, we are convinced that the bills' differences in approach can be harmonized, and we look forward to working with you as the bills move through the legislative process. We are hopeful that our combined efforts, as well as your Committee's past and continued support for NOAA, will provide the momentum needed to enact a NOAA organic act this session.

I would be pleased to answer any questions you may have.